

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 05/30/01.
 - b. The request was received on 05/16/02.

II. EXHIBITS

1. Requestor:
 - a. Initial Submission of TWCC-60
 1. UB-92s
 2. EOBs
 - b. Additional documentation received on 06/11/02
 1. Position Statement
 2. Medical Records
 3. UB92s
 4. EOBs
 5. EOBs from other carriers
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. The Commission file has no carrier sign sheet for the Notice of Medical Dispute. A TWCC MDUL computer screen dated 07/01/02 reflected in Exhibit II of the case file states, "ADDITIONAL INFORMATION SUBMITTED 6/11/02; COPY FORWARDED TO IC ON 6/13/02; IC RESPONSE DUE 6/28/02; NO ADDITIONAL INFO FROM CARRIER AS OF THIS DATE. FORWARDED TO WACO FOR REVIEW". An additional MDUL computer screen dated 07/02/02 states, "RESPONSE RECEIVED DATE 07/01/02 RESPONSE code – U – UNTIMELY". The case file contains no information from the carrier. A fax confirmation sheet indicates a request for additional information was faxed to the parties on 06/06/02 in accordance to Rule 133.307 (g) (3).
4. Notice of the confirmation sheet request for additional information faxed the requestor is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 06/10/02:
“(Requestor) charges the above-referenced services at a fair and reasonable rate. Specifically, these rates are based upon a comparison of charges to other Carriers and the amount of reimbursement received for these same or similar services. Based upon the requirements of Texas Administrative Code Section 130.304, a methodology may be developed to establish that a ‘fair and reasonable’ reimbursement amounts [sic] to ensure proper payment by Workers’ Compensation Carriers.”
2. Respondent: No Response

IV. FINDINGS

1. Based on Commission Rule 133.307(d)(1&2), the only date of service eligible for review is 05/30/01.
2. The amount in dispute per the initial TWCC-60 is \$9,153.80.
3. The issue is fair and reasonable reimbursement of an ambulatory surgery center’s facility fee.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401(a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011(b) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Rule 133.307 (g) (3) (D) places certain requirements on the provider when supplying documentation with the request for dispute resolution. The provider is to discuss, demonstrate, and justify that the payment amount being sought is fair and reasonable. Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier’s response is not in the case file

Because there is no current fee guideline for ASCs, the Medical Review Division has to determine, based on the parties' submission of information, who has provided the more persuasive evidence. Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. There was carrier response in noted in the dispute packet. Regardless of the carrier's lack of response, methodology, or denial codes, the health care provider has the burden to prove that the fees paid were not fair and reasonable. In this case, the provider submitted EOBs from other carriers that indicate those carriers paid varying percentages of the billed charges. The willingness of some carriers to reimburse at or near the billed amount does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011(b) of the Texas Labor Code. The provider's documentation fails to justify or demonstrate that the fees requested are fair and reasonable. Therefore, no further reimbursement is recommended.

The above Findings and Decision are hereby issued this 16th day of August 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

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